

Introduced by Senator SpeierFebruary 20, 2004

An act to amend Section 296 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

SB 1737, as introduced, Speier. DNA collection.

Under existing law, specified felony offenders, sex offenders, and persons convicted of terrorist activity are required to provide blood and saliva samples along with their prints for a state DNA database.

This bill would make a technical, nonsubstantive change to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 296 of the Penal Code is amended to
2 read:

3 296. (a) (1) Any person who is convicted of any of the
4 following crimes, or is found not guilty by reason of insanity of
5 any of the following crimes, shall, regardless of sentence imposed
6 or disposition rendered, be required to provide two specimens of
7 blood, a saliva sample, right thumbprints, and a full palm print
8 impression of each hand for law enforcement identification
9 analysis:

10 (A) Any offense or attempt to commit any felony offense
11 described in Section 290, or any felony offense that imposes upon
12 a person the duty to register in California as a sex offender under
13 Section 290.



1 (B) Murder in violation of Section 187, 190, 190.05, or any
2 degree of murder as set forth in Chapter 1 (commencing with
3 Section 187) of Title 8 of Part 1 of the Penal Code, or ~~any~~ *an*
4 attempt to commit murder.

5 (C) Voluntary manslaughter in violation of Section 192 or an
6 attempt to commit voluntary manslaughter.

7 (D) Felony spousal abuse in violation of Section 273.5.

8 (E) Aggravated sexual assault of a child in violation of Section
9 269.

10 (F) A felony offense of assault or battery in violation of Section
11 217.1, 220, 241.1, 243, 243.1, 243.3, 243.4, 243.7, 244, 245,
12 245.2, 245.3, or 245.5.

13 (G) Kidnapping in violation of subdivisions (a) to (e),
14 inclusive, of Section 207, or Section 208, 209, 209.5, or 210, or an
15 attempt to commit any of these offenses.

16 (H) Mayhem in violation of Section 203 or aggravated
17 mayhem in violation of Section 205, or an attempt to commit either
18 of these offenses.

19 (I) Torture in violation of Section 206 or an attempt to commit
20 torture.

21 (J) Burglary as defined in subdivision (a) of Section 460 or an
22 attempt to commit this offense.

23 (K) Robbery as defined in subdivision (a) or (b) of Section
24 212.5 or an attempt to commit either of these offenses.

25 (L) Arson in violation of subdivision (a) or (b) of Section 451
26 or an attempt to commit either of these offenses.

27 (M) Carjacking in violation of Section 215 or an attempt to
28 commit this offense.

29 (N) Terrorist activity in violation of Section 11418 or 11419, or
30 a felony violation of Section 11418.5, or an attempt to commit any
31 of these offenses.

32 (2) Any person who is required to register under Section 290
33 because of the commission of, or the attempt to commit, a felony
34 offense specified in Section 290, and who is committed to any
35 institution under the jurisdiction of the Department of the Youth
36 Authority where he or she was confined, or is granted probation,
37 or is or was committed to a state hospital as a mentally disordered
38 sex offender under Article 1 (commencing with Section 6300) of
39 Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions
40 Code, shall be required to provide two specimens of blood, a saliva

1 sample, right thumbprints, and a full palm print impression of each
2 hand to that institution or, in the case of a person granted probation,
3 to a person and at a location within the county designated for
4 testing.

5 (b) The provisions of this chapter and its requirements for
6 submission to testing as soon as administratively practicable to
7 provide specimens, samples, and print impressions as described in
8 subdivision (a) shall apply regardless of placement or confinement
9 in any mental hospital or other public or private treatment facility,
10 and shall include, but not be limited to, the following persons,
11 including juveniles:

12 (1) Any person committed to a state hospital or other treatment
13 facility as a mentally disordered sex offender under Article 1
14 (commencing with Section 6300) of Chapter 2 of Part 2 of
15 Division 6 of the Welfare and Institutions Code.

16 (2) Any person who has a severe mental disorder as set forth
17 within the provisions of Article 4 (commencing with Section
18 2960) of Chapter 7 of Title 1 of Part 3 of the Penal Code.

19 (3) Any person found to be a sexually violent predator pursuant
20 to Article 4 (commencing with Section 6600) of Chapter 2 of Part
21 2 of Division 6 of the Welfare and Institutions Code.

22 (c) The provisions of this chapter are mandatory and apply
23 whether or not the court advises a person, including any juvenile,
24 that he or she must provide the databank and database specimens,
25 samples, and print impressions as a condition of probation, parole,
26 or any plea of guilty, no contest, or not guilty by reason of insanity,
27 to any of the offenses described in subdivision (a).

28 (d) At sentencing or disposition, the prosecuting attorney shall
29 verify in writing that the requisite samples are required by law, and
30 that they have been taken, or are scheduled to be taken before the
31 offender is released on probation, or other scheduled release.
32 However, a failure by the prosecuting attorney or any other law
33 enforcement agency to verify sample requirement or collection
34 shall not relieve a person of the requirement to provide samples.

35 (e) The abstract of judgment issued by the court shall indicate
36 that the court has ordered the person to comply with the
37 requirements of this chapter and that the person shall be included
38 in the state's DNA and Forensic Identification Data Base and Data
39 Bank program and be subject to this chapter. However, failure by
40 the court to enter these facts in the abstract of judgment shall not



- 1 invalidate a plea, conviction, or disposition, or otherwise relieve
- 2 a person from the requirements of this chapter.

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